

CITY OF MORGAN HILL  
JOINT REGULAR CITY COUNCIL AND  
SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES - APRIL 4, 2001

**CALL TO ORDER**

Mayor/Chairman Kennedy called the special meeting to order at 7:07 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Chang, Sellers, Tate and Mayor/Chairman Kennedy.

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor/Chairman Kennedy, Brad Krouskup led the Pledge of Allegiance.

**INTRODUCTIONS**

Finance Director Dilles introduced newly hired Chu Thai, *Budget Manager*. The introductions of Steve Pennington, *Code Enforcement Officer* and Marla Anderson, *Accounting Assistant I* were deferred to a future meeting.

**EMPLOYEE RECOGNITION**

Chief of Police Schwab acknowledged and Mayor Kennedy presented Pam Henley, Support Services Specialist II Chiara Klaver, Support Services Specialist II; Tony Marquez, Support Services Specialist II; Paula Rodriguez, Support Services Specialist III; and Connie Shepard, Support Services Specialist II with Certificates of Recognition for their efforts of inputting cases into the Police Department's computer record system.

**PROCLAMATION**

Mayor Kennedy presented a proclamation to Lisa Ramos and Debbie Gutierrez, Community Solutions, recognizing April as *Sexual Assault Awareness Month*

Ms. Ramos distributed Sexual Assault Awareness month ribbons to the City Council and indicated that an event will be held on April 18, 2001 at Gilroy's Christmas Hill Park Amphitheater from 5-8 p.m. She provided the City Council and the public with Sexual Assault Awareness and Child Abuse prevention information.

Ms. Gutierrez indicated that Community Solutions provides 24- hours, seven days a week rape crises

services, including peer counseling for the victims and accompanying them to court.

### **CITY COUNCIL REPORT**

Mayor Pro Tempore Sellers stated that he and Mayor Kennedy have worked to establish the Morgan Hill Community Health Foundation with the assistance of the other Council Members and members of the community. He stated that the first meeting of the Foundation was held last night and that it is well underway. He indicated that the Foundation is looking forward to being an independent, autonomous and productive group. Santa Clara County Cities Association Legislative Advisory Committee: This Committee helps monitor legislation, particularly from Sacramento that is of relevance and importance to cities. He indicated that Senate Bill 910 is significant to Morgan Hill as it would impose penalties on cities that do not meet ABAG housing targets. He indicated that Morgan Hill could be liable for significant fines or would be forced to look at its growth control ordinance. He felt that this is a no win situation and that the Cities Association has band with other cities throughout the state who are strongly opposed to this bill. City-School Liaison Committee: He and Council Member Tate serve on this committee and have been working with the School District on a variety of projects such as trying to improve recreation opportunities and the Sobrato high school project. The Committee is hopeful that the City of San Jose will be cooperating and assisting in the Sobrato project. Condit-Main signalization: He indicated that over the last several years, it has come to light that the intersection of Main and Condit was a dangerous area. He received an e-mail from a high school student approximately a year ago who had an accident at this intersection. He went back to find the e-mail and wrote back to the student that it sometimes takes a long time to achieve goals. He noted that the traffic signal has been installed at Condit and Main after working with the county and other agencies. He acknowledged that there is still work to be done and that the City would try to continue to improve the situation. Housing: The City has been looking at opportunities to provide additional housing and to investigate how housing would look like in the future. He noted that the City sponsored a housing symposium, with another meeting proposed to be scheduled this summer, focusing on downtown housing and housing throughout the community. He indicated that a task force may be developed in conjunction with the Downtown Plan update.

### **CITY MANAGER'S REPORT**

City Manager Tewes reported that the City initiated the review process for the general plan update last week. He indicated that the general plan recommendations coming out of a citizen's task force were presented to the City Council and Planning Commission. He informed the City Council and the public that a meeting will be held tomorrow night (April 5) in the Council Members at 7:00 p.m. and that the community is invited to the general plan workshop to learn more about the recommendations developed by the citizen's task force over the past year and a half.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter indicated that the Monthly Litigation Summary has been distributed, noting that the city has five cases and is awaiting for one to drop off as soon as the notice of satisfaction of judgement is received.

### **PUBLIC COMMENT**

Mayor Kennedy opened the floor to public comments for items not appearing on the agenda. Council Member Chang presented Mayor Kennedy and City Manager Tewes with a flag that flew over the Capital on March 14, 2001 at her request from California Congresswoman Zoe Lofgren. No other comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **approved** Consent Calendar Items 1-6 as follows:*

1)        **PURCHASE OF RECYCLING CONTAINERS**

**Action:** **Approved** Purchase of Recycling Containers.

2)        **AWARD PROFESSIONAL SERVICES CONTRACT FOR DESIGN OF MAIN STREET REPLACEMENT WELL**

**Action:** **Authorized** the City Manager to Execute an Agreement with Lohdorff & Scalmanini for the Design of the Main Street Replacement Well in the Amount of \$33,992.

3)        **AMENDMENT TO CONTRACT WITH CAROLLO ENGINEERS FOR STORM DRAIN MASTER PLAN**

**Actions:** **Approved** an Amendment to the Contract with Carollo Engineers for the Storm Drain Master Plan in the Amount of \$6,900 and **Authorized** the City Manager to Execute the Agreement.

4)        **ACCEPTANCE OF THE CONSTRUCTION OF BUTTERFIELD BOULEVARD, PHASE III IMPROVEMENTS PROJECT**

**Actions:** 1) **Accepted** as Complete the Construction of Butterfield Boulevard, Phase III Improvements Project in the Final Amount of \$1,662,640, and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

5)        **CITY POSITION ON STATE LEGISLATION**

**Action:** **Directed** Staff to Prepare Letters Stating the City's Legislative Position for the Mayor's Signature.

6)        **REDUCED RISK PESTICIDE ORDINANCE**

**Action:** **Provided** Direction to Staff

### **PUBLIC HEARINGS:**

7)        **OUT OF AGENCY SERVICE REQUEST, OSR-00-04: BURNETT - KAWAHARA**

Director of Community Development Bischoff presented the staff report.

Council Member Tate asked whether city staff would be required, on a regular basis, to inspect the

water hydrant should water service be approved?

Director of Public Works Ashcraft indicated that the request is for at least two on site fire hydrants and that these would not be inspected by the City. He indicated that backflow protection devices would be installed to ensure that no contamination occurs to the City's water supply. However, should a fire hydrant be knocked off accidentally it would take extra effort to find out about the fire hydrant such as someone complaining about low water pressure. It was his understanding that there is a request for a fire hydrant on the street fronting the property. Staff would inspect this fire hydrant and have the same problems of being knocked off in the middle of the night, resulting in a problem with response time. This is one reason that staff does not believe that further decentralization of city water service makes sense in this instance.

Mayor Kennedy inquired whether alarms have been installed in the City's water system that would detect a drop in pressure (e.g., central alarm)? Mr. Ashcraft stated that if you have a substantial amount of water and there is a demand on the water system due to a fire demand, you would not hear the alarms go off. If the pressure goes to zero at a fire hydrant because it has been knocked off, this would be a different issue and said that there is no way to alarm this. He indicated that there are no low pressure alarms throughout the city's water system other than at the water tank sites.

Mayor Kennedy stated that the City could require that the property owner's alarm be tied into the Santa Clara County Fire System to address the on-site issue. However, should a break occur off site, this would be a potential exposure that would result in a loss of a lot of water before it is detected.

Mr. Ashcraft noted that there is no water line within 3,000 feet of this business. He indicated that there is a proposal to build a water line which may be completed as early as this summer. He indicated that an off site developer is required to loop the City's water system in the area to provide service as part of his residential project. He stated that the Kawahara request assumes that the water line is installed.

Mayor Kennedy opened the public hearing.

Dave Kawahara, applicant, stated that he and his brother are the owners of Kawahara Nursery. He indicated that the nursery has been in Morgan Hill for 21 years and currently employs over 200 individuals who reside in and around Morgan Hill. He said that the nursery experienced a four alarm fire in August 2000. After the fire, it was learned that a 12" water line would be running in front of his property. He is before the City Council to request permission to connect to the water line solely for fire protection. He indicated that the water would not be used for potable use. It was his belief that this is a documented health and safety issue. Also, it is felt that this is a unique request and that many benefits outweigh the negatives. He stated that he would agree to pay all of the installation costs associated with the connection and the required city standard meter and provide the necessary periodic readings. He distributed specifications for a "break off check valve" which can be installed underneath the fire hydrant. Should the fire hydrant break, this device will seal the fire hydrant. He indicated that the water line that is supplying the sprinkler system also has an alarm system that has a telephone alert that goes to the fire department. It is his hope that he will never have to use the water line. He reiterated that he would be willing to pay all costs relating to this service.

Mayor Kennedy asked what would Mr. Kawahara do in the event the City denies the water connection? Mr. Kawahara responded that the Fire Marshal is requiring a 270,000 gallon water tank be installed with a pump that pumps 1,625 gallons per minute. He indicated that only the building to be reconstructed would be sprinklered. He informed the City Council that an 18,000 square foot building would be replacing the 24,000 square foot building that formerly existed. He indicated that the Fire Marshal has encouraged him to obtain the connection.

Council Member Carr asked Mr. Kawahara if his entire project would be held up pending the extension of the water line down Burnett Avenue should the City Council approve the request? Mr. Kawahara responded that the County Fire Marshall has indicated that she would allow the current water supply for the property to suffice, depending on how long it would take to install the water line. If the installation of a water line will take too long, he would have to move forward with the installation of the 270,000 gallon water tank and the pump system.

Mayor Kennedy stated that the logical thing to do is to grant the right to connect as long Mr. Kawahara is willing to meet the criteria that he has outlined this evening. He asked Mr. Kawahara if at some future point the City requests that the property be annexed, would he agree to be annexed into the city? Mr. Kawahara responded that his family would be willing to annex into the City at such time the city so requests. He indicated that he proposes to use the break off check valves as part of the installation of the fire hydrants.

No other comments being offered, Mayor Kennedy closed the public hearing.

Mayor Pro Tempore Sellers agreed that the logical course of action is to approve the request. However, it is complicated by the fact that the City does not want to set a precedent. He felt that based on the issues and the current policy in place, this is a unique case and would improve public safety. He expressed concern with reduction of water flow and the fact that this is non potable water so that you do not end up in a situation where it makes it easy to create a project in the future. He felt that these concerns have been answered.

City Attorney Leichter stated that should the City Council adopt a resolution, she suggested that it be amended to require an agreement with the property/nursery owners to outline what would happen in terms of provision of service, who would assume cost for the provision of service, what would happen if the property were to be annexed, that there would be no protest from nursery owners, and that this agreement be recorded in accordance with City standard policy that runs with the land. It also has to be acknowledged that this approval is for a temporary use and that it is not a guarantee of continued water service to the parcel in the future. She recommended that an agreement be crafted that would incorporate the identified items and that the agreement return for the City Council for review and/or approval.

Council Member Tate asked when the water line would be extended to Burnett Avenue? He was not sure how this water line extension could be conditioned as there is no schedule for its installation at this time.

Mr. Ashcraft indicated that the Madrone Crossing residential project located between Tilton and Old Monterey has yet to break ground. The developer for this project has two years of Measure P allocations, noting that this project is a year behind schedule with issues associated with Fish and

Game Department and the San Francisco Regional Water Control Board. He stated that the water line should have been constructed last summer and repaid by the City. The developer would be the administrator and his contractor the builder. When it is ready to be built, a supplemental improvement would be proposed to the City Council that would allow the City, through the water fund, to repay most of the cost of the line. He indicated that the water line has to be installed before the developer brings in the first piece of framing onto the land. This timing is in question as the developer continues to have issues with the identified agencies. He said that this water line is needed for a variety of services (Madrone Crossing project cannot obtain water flow without this water loop, the Sobarto high school needs this water line, and the line would include increased fire protection to the area as well as giving the city the ability to eliminate the stand by emergency well due to water quality problems). He stated that the developer has indicated that he believes that the issues are soon to be resolved and that the water line should be constructed.

City Manager Tewes noted that Mr. Kawahara suggests unique circumstances. He said that the line is needed to loop the City's water system. He stated that the City water system will pay for this capital construction and that those who connect to it will pay their fair share of the capital cost through connection charges and impact fees. He was not sure how this could be accomplished in this instance as there is no fee established for connecting to a fire hydrant. He identified a circumstance in which a line already ran adjacent to a parcel. The property owner wanted to connect to an existing line approximately three months ago. The property owner agreed to pay the appropriate ongoing maintenance cost, noting the capital component attached to the approval. In this case, a line does not exist and needs to be extended. He recommended that the city figure out how this property owner can share in the capital cost should the City Council wish to entertain approval. He noted that the property owner is not proposing to connect to domestic water service and that he was not sure how the formula for domestic water could be applied in fairness.

Council Member Tate stated that there appears to be a consensus of the City Council that it would like to approve the request but that there are a few issues that need to be studied. He recommended that this item be brought back with proposed solutions.

Council Member Carr asked Mr. Kawahara if he is proposing to expand his business or services? If so, what other impacts would this have to the city (e.g., additional traffic)?

Mr. Kawahara responded that the family land is almost completely developed with nursery buildings. The new building would replace the building that burnt down, noting that it is smaller than the previous building. He indicated that although he employs more than 200 employees, many individuals do not come into the nursery on a regular basis. He stated that he tries to alleviate traffic by using two streets. He indicated that most of the trucks are out before 6:00 a.m. and return early in the afternoon. Therefore, they do not impact the heavy commute times.

Mayor Kennedy indicated that there is a consensus of the City Council to continue this item, direct staff to work out some of the details and answer the questions and concerns raised. Staff would return at a future meeting to allow the City Council to act on the request. He stated that the City Council needs to make sure that the City's interests are protected and that it is fair and equitable for the Morgan Hill tax payers and businesses.

**Action:**      *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **continued** this item and **directed** staff to return with a formal agreement for Council consideration.*

**1)      PREZONE APPLICATION, ZA-00-16: WEST EDMUNDSON-PINN - Ordinance 1504, New Series**

Council Members Chang and Tate recused themselves from this item due to a conflict of interest.

Director of Community Development Bischoff presented the staff report. He informed the City Council that the applicant requested that the most easterly parcel be prezoned R-2, 3,500 and the remainder parcels prezoned R-1-7,000. These zonings would be consistent with the General Plan designation on the property. He indicated that the Planning Commission supported the R-2, 3,500 designation on the most easterly property but is recommending R-1-9,000 on the remaining three parcels. The Planning Commission felt that it would provide a better transition from the smaller lots located to the east to larger lots located to the west. It was felt that this prezone would be more compatible to what is located to the south and the hillside area located to the northwest. In response to Council Member Carr's inquiry, he indicated that there may be a difference of 10 units between the R-1-7,000 and the R-1-9,000 prezone designation. He stated that it was his understanding that the applicant was not opposed to this zoning at the Planning Commission level.

Mayor Kennedy opened the public hearing.

John Dossetti felt that this was a good example of infill development and not considered sprawl. Development would allow the clean up of a blighted area with the construction of beautiful homes. He supported the applicant's request.

Mr. Bischoff informed the City Council that three affirmative votes would be needed in order to approve the prezone ordinance.

Council Member Carr expressed concern with the Planning Commission's recommendation of changing the prezone request from R-1-7000 to R-1-9000. However, he noted that the applicant concurs with this recommendation. He expressed concern with the loss of 10 residential units. He was not clear why the difference between 7,000 and 9,000 blends in better with the units to the south.

Mr. Bischoff responded that with an RPD overlay, there would be a variation in lot sizes. He said that typically, in an R-1-7,000 zoning district, you would see some lots that would be larger than 7,000 square feet (9,000-10,000 square feet) and still see some lots that are as small as 5,500-6,000 square feet. It was his belief that the Planning Commission would be concerned with seeing lots this small backing into the Hidden Creek area where the lots are at 7,000 square feet. With an R-1-9,000 zoning district, you could end up with lots as small as 7,000 square feet and smaller sizes adjacent to the existing R-2 development. It was his belief that the Planning Commission's expectations would be that as you move further to the west, you end up with larger lots.

Mayor Kennedy stated that the property owner would have to submit a Measure P application, noting that Measure P requires a variety of housing types and sizes. He felt that in reality, you would have a mix of housing and lot sizes in order to score well. He noted that although the prezone

states R-1-9,000, the reality would be that a mix would result.

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 3-0 vote with Council Members Chang and Tate abstaining, **Waived** the first and second readings of Prezone Ordinance No. 1504, New Series*

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1504, New Series, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PREZONING A 2.3-ACRE PARCEL (APN 767-21-045) FROM COUNTY RR TO CITY R-2 (3,500)/RPD, MULTI-FAMILY MEDIUM RESIDENTIAL PLANNED DEVELOPMENT AND 10.7 ACRES FROM COUNTY RR TO CITY R-1 9,000/RPD SINGLE FAMILY MEDIUM RESIDENTIAL PLANNED UNIT DEVELOPMENT (APN 767-21-013, 014 & 015) by the following roll call vote: AYES: Carr, Kennedy, Sellers; NOES: None; ABSTAIN: Chang, Tate; ABSENT: None.*

Council Members Chang and Tate resumed their seats on the dais.

**9) GENERAL PLAN AMENDMENT, GPA-00-05/ZONING AMENDMENT, ZA-00-22: MADRONE PARKWAY-TBI - Resolution No. 5465 & Ordinance No. 1505, New Series.**

Director of Community Development Bischoff presented the staff report and informed the City Council that the Planning Commission recommends the inclusion of architectural and landscaping requirements to acknowledge the project's site significance as a gateway to the Madrone area. He noted that a condition has been included to address this. He indicated that staff met with the applicant to discuss ways that this condition may be addressed and that a satisfactory resolution has been reached (e.g., use of warmer colors, different color glass, other treatments that may be reflective of the historic nature of Madrone). He informed the City Council that the water tank will remain, noting that it is sited on an independent piece of property. It is proposed to screen the equipment to be located underneath the water tank and to be compatible with the design of the building. He indicated that a condition has been included that would require that the lawn in front be bermed a minimum of three feet.

Brad Krouskup indicated that Toeniskoetter and Breeding (TBI) Company does not own the water tower site. He stated that he could not substantiate what color the tower would be painted.

Mayor Kennedy recommended that the electronic microwave cubicles located at the base of the tower be recessed down versus building a high wall in front. He asked if the City has any control as to what the water tower owner does? Mr. Bischoff said that the owner has been before the Commission to receive approval for the placement of some cellular facilities at the top of the tower. He stated that the equipment will be included and that a screen wall at a height of eight feet is proposed around the equipment. He said that you may be able to see a little bit of the equipment above the top of the wall and that there may be some concern with the stability of the tank and its foundation should the equipment be recessed.

Mayor Kennedy asked if there was a way to lower the silhouette of the cubicles? Mr. Bischoff stated that he would talk to planning staff to investigate the status of any outstanding permits that the



owner may have and what the City may be able to do in this regard.

Mayor Kennedy felt that the biggest issue is that of aesthetics and what the tank will look like. He felt that everything else fades away in comparison to how dominant the features are on the site. He requested that staff investigate to see if there is anyway to control the aesthetics of the water tank.

Mayor Kennedy opened the public hearing.

Brad Krouskup informed the City Council that Toeniskoetter and Breeding is the Managing member of TBI Mission West who owns the predominant portion of the Madrone Business Park. He requested City Council approval of staff's and planning commission recommendation. He felt that the request is consistent with General Plan policies in terms of business growth and identifying industrial property that could generate jobs. He indicated that a specific user has signed a lease for this building who would bring approximately 500 jobs to Morgan Hill. He felt that Madrone Parkway becomes a logical separation of commercial to the north of Madrone Parkway and taking an island adjacent to industrial and bringing it into the fold of industrial. He felt that TBI is on the right track with the design of the building. He indicated that he has worked closely with staff and felt that there are certain changes that can be made to the building. If the colors need to be softened and be more earthtone, he is open to this suggestion. He stated that the wall around the tower is very hard edged as it comes to 90 degree angles. He met with Bill Miner and indicated that Mr. Miner is open to the idea of reconfiguring the elbow shaped parcel underneath the tower in order to provide some detail in the wall that surrounds it similar to that of the building. He stated that TBI would like to make the equipment sheds go away, however, it is difficult to do so as TBI is not the owner of the property. TBI's control is to install something around the tower. He felt that the screening could be lowered with the use of a decorative wrought iron element placed around the top of the wall that would provide some screening but not full screening. He would like to investigate alternative solutions to address the aesthetic concerns. Regarding the landscaping, he indicated that a similar design was used on the Condor project being constructed at the northern extension of Butterfield and Madrone Parkway. He expressed concern with the supplemental language added. He referred to page 57, paragraph D. This paragraph requires that the berm height be a minimum of three feet adjacent to Monterey Road and Madrone Parkway. He indicated that the berm and irrigation have been installed and would necessitate modification to the improvements that have already been installed. If the City Council felt that it was important to raise the berm six inches, he would agree to do so.

Mayor Kennedy asked how extensive it would be to increase the berm height to three feet along Monterey Road? Mr. Krouskup responded that raising the berm to three feet on Monterey Road is doable. He informed the City Council that he did not believe that Thomas Kinkade would be installing a light house.

Mr. Bischoff stated that he could report back to the City Council regarding the status of the water tank and the owner's plans at the next meeting.

There being no further input, the public hearing was closed.

Mayor Pro Tempore Sellers stated that former Council Member John Sorci was interested in preserving the tower. His thought is that while the property owner may only be required to paint it a basic color, it is a significant monument to the City. He felt that with financial assistance from

the Redevelopment Agency, it would be an opportunity to do something more significant. He was pleased to see that Mr. Krouskup and the property owner are working together to identify how the tower complements the building. He stated his support of the use of Redevelopment Agency funds to preserve the tower as a monument.

Council Member Tate stated that he was encouraged by the fact that Mr. Krouskup has been working with the adjacent property owner. He would support beautifying the water tower.

Mayor Kennedy noted that the Madrone area has been somewhat neglected and felt that this would be an excellent application and use of Redevelopment Agency funds.

Council Member Chang and Mayor Kennedy stated their support of the building color and felt that the design of the building was attractive.

Mayor Pro Tempore Sellers said that he wanted to understand the reasoning of the Planning Commission. He stated that Madrone is the oldest part of the community and is considered historic, noting that the buildings in this area are not defined. As there is not a unique design to the Madrone area, he would agree that the building has an attractiveness of its own, noting that it is located in the Madrone Business Park. He expressed concern that the recommendation made by staff would make the building less distinctive.

Mayor Kennedy noted that there are at least four Council Members who share the view that this is an attractive building and that to try to make it fit Madrone's architectural or historical presence does not seem to make sense. He acknowledged the presence of the water tank and that it should be preserved, however, its design needs to be tastefully done.

Council Member Carr stated that what impressed him was the gateway nature of this area. It would be his intent that the gateway into Morgan Hill does not become a parking lot in the front of an industrial building. He felt that the berm would play a part in the design of the building.

Mayor Kennedy agreed that the berm along Monterey Road needs to be consistent with the berm to the south, at a minimum of three feet.

Mr. Krouskup stated that he would agree to use a three-foot berm as a benchmark.

Council Member Chang recommended the construction of a lower, freestanding silver windmill adjacent to the tower as it would be an attractive feature.

Council Member Tate recommended the deletion of the last sentence of Architecture, subsection H (page 50).

Council Member Carr stated that should subsection H under Architecture (page 50) be deleted, something would be lost in the zoning amendment as he did not see anywhere else where it talks about gateways. He felt that being a gateway is important and needs to remain.

Council Member Carr recommended that the last sentence of section H (page 50) be deleted and be replaced with the following sentence: "Future buildings shall recognize the significance of this

gateway." This sentence would recognize the importance of building design in the Madrone and/or Business Park gateways.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Adopted** Resolution No. 5465, approving the General Plan Amendment.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1505, New Series (zoning amendment).*

**Action:-**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council **Introduced** Ordinance No. 1505, New Series as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING ZONING AMENDMENT, ZA-00-22: MADRONE PARKWAY-TBI (APN's 726-35-001 (PORTION) AND 726-35-002, amending Landscaping Section D (page 49) to read: Landscape Berm height shall be consistent with berms to the south of the property along Monterey Road and amending Architecture Section H (page 50) to replace the last sentence with the following: Future buildings shall recognize the significance of the gateway by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

**10)    GENERAL PLAN AMENDMENT, GPA-00-04/ZONING AMENDMENT, ZA-00-20: SORREL-HERITAGE GROVE - Resolution No. 5466**

Council Member Chang recused herself from agenda item 10 due to a potential conflict of interest (owner of property within 500 feet of this application.)

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing.

Glenn Chadbourne, 2420 Magnolia Court, supported staff's recommendation for denial. He felt that rezoning the property would result in a loss in the investment he made on his home.

Richard Chavarria, 2455 Magnolia Way, real estate broker and adjacent property owner, requested that the Council retain the current general plan designation and not increase the density. He stated that he was advised, at the time he purchased his home, that the adjacent property could develop at a minimum of 40,000 square feet. He indicated that Heritage Green and adjacent residents request that the existing zoning be retained.

Dennis O'Neill, 2415 Magnolia Court, Heritage Green resident and adjacent parcel, stated that he purchased his home with the understanding that the property would be developed as larger lots. He informed the City Council that the property is listed under multiple listings. He noted that high density is located across Dunne Avenue and that a housing density mix already exists in the area.

No further comments being offered, the public hearing was closed.

**Action:**      *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang abstaining, **Adopted** Resolution No. 5466, denying the General Plan and Zoning Amendment applications.*

Council Member Chang resumed her seat on the dais.

**11)      SOLID WASTE MANAGEMENT RATE ADJUSTMENT - Resolution No. 5464**

Assistant to the City Manager Eulo presented the staff report. Mayor Kennedy opened the public hearing. No input being offered, the public hearing was closed.

**Action:**      *On a motion by Council Member Chang and seconded by Council Member Tate, the City Council unanimously (5-0) **Adopted** Resolution. No. 5464, approving the Refuse Rate Adjustment.*

**OTHER BUSINESS:**

**12)      REQUEST TO EXTEND THE APPLICATION FILING PERIOD FOR THE RECRUITMENT OF ARCHITECTURAL AND SITE REVIEW BOARD (ARB) MEMBERS**

City Manager Tewes presented the staff report. Mayor Kennedy opened the floor to public comment. No comments were offered.

**Actions:**      *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Authorized** Staff to Extend the Application Filing Period for the Recruitment of ARB members to April 20, 2001*

**Actions:**      *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Directed** Staff to Schedule ARB Applicant Interviews on May 2, 2001.*

**Actions:**      *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Directed** staff to return with an amendment to the ARB ordinance that would allow one member on the Board to reside outside of the City Limits similar to the make up of the Planning Commission.*

## ***City Council & Redevelopment Agency Action***

**CONSENT CALENDAR:**

**Action:**      *On a motion by Mayor Pro Tempore/Agency Member Sellers and seconded by Council Member/Vice-chairman Carr, the City Council/Agency Commission, on a 4-0-1 vote with Council/Agency Member Chang abstaining, **approved** Consent Calendar Item 13 as follows:*

**13)      JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT**

**AGENCY MEETING MINUTES OF MARCH 21, 2001**

**Action:** ***Approved** the minutes as submitted.*

**OTHER BUSINESS:**

**14) INVESTMENT POLICY UPDATE**

Finance Director Dilles presented the staff report.

Mayor Kennedy opened the floor to public comment.

City Treasurer Mike Roorda stated that although other market places have been impacted negatively, the city's investments have not been. He said that although yields have declined, the City has been able to retain yields in some of its investments and reinvested the money that has come due or has been called in new investments at yields at or above today's yields. He felt that the City is in good shape from this stand point.

Mayor Kennedy stated that the Finance and Audit Committee met last week and discussed its investment policy. The Committee agrees with the comments that have been made and acknowledged that this is a good policy that has served the City well. He thanked City Treasurer Roorda for his diligence and good work.

No further comments were offered.

**Actions:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) **Reviewed** and **Adopted** the Updated Investment Policy for the City.*

**Actions:** *On a motion by Agency Member Sellers and seconded by Agency Member Chang, the Agency Commission unanimously (5-0) **Reviewed** and **Adopted** the Updated Investment Policy for the Redevelopment Agency.*

***City Council & Redevelopment Agency Action***

**CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the following closed session items:

**1.**

**CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) AND CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority:	Government Code 54956.8, 54956.9(b), & 54956.9(c) (1 potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Road (St. Louise Hospital property)
City Negotiators:	City Council/Agency Members; City Manager/Executive Director; City Attorney/Agency Counsel; and Special Counsel
For Property Owner:	San Jose Christian College representatives

Closed Session Topic/Under Negotiations: Potential Litigation & Price and Terms of Payment

2.

**CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION**

(Subdivision (a) of Section 54956.9)

Name of Case: City of San Jose v Morgan Hill Unified School District, City of Morgan Hill and South San Jose Interests; Santa Clara County Superior Court

3.

**CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) & CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54946.9(c)  
Property: APN 825-06-002, 003, 029, 030; 36.6 acres (Railroad/Maple - Butterfield Retention Basin Site)

Negotiating Parties:

For City: City Manager; Public Works Director

For Property Owners: Costa Family Partners

Closed Session Topic/Under Negotiation: Potential Litigation & Price and Terms of Payment

4.

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority: Government Code 54956.8  
Property: APN 817-13-001; 37.8 acres (soccer complex)

Negotiating Parties:

For City: City Manager, City Attorney, Public Works Director

For Property Owners: Tadashi & Alice A. Kadonaga, Trustee

Under Negotiation: Price and Terms of Payment

5.

**CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8  
Real Property Involved: 10.0, 18.90, and 0.05 acre parcels located on the east side of Condit Road, bounded by Condit Road, Tennant Avenue, Barrett Avenue and Murphy Avenue (APNs 817-13-001, 017, and 033)  
City/Agency Negotiators: City Manager/Executive Director; Interim City Attorney/Agency Counsel; Director of Business Assistance & Housing Services  
Closed Session Topic: Acquisition of Real Property

6.

**CONFERENCE WITH LABOR NEGOTIATORS**

Legal Authority: Government Code Section 54957.6  
Agency Negotiators: City Manager, Assistant to the City Manager, City Attorney

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION:**

Mayor/Chairman Kennedy adjourned the meeting to closed session at 9:02 p.m.

**RECONVENE:**

Mayor Kennedy reconvened the meeting at 10:11 p.m.

**CLOSED SESSION ANNOUNCEMENT:**

City Attorney/Agency Council Leichter announced that no reportable action was taken on the above listed closed session items.

**ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:12 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**Irma Torrez, City Clerk/Agency Secretary**